

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

BANK OF AMERICA, N.A., a national
association,

Plaintiff,

Case No.

v

Hon.

KETURAH MIXON, an individual, and
KINGDOM WARRIORS MINISTRY a/k/a Doe
Defendant,

Complaint

Defendants.

There are two other related lawsuits arising out of the same transaction and/or occurrence alleged in Plaintiff's Complaint. Those lawsuits were pending in this Court; case no. 1:18-cv-00499-JTN and case no. 1:15-cv-00486-JTN.

Plaintiff, BANK OF AMERICA, N.A., a national association, for its Complaint states as follows:

1. Plaintiff BANK OF AMERICA, N.A. ("BANA"), is a national association licensed to do business in the State of Michigan.

2. Defendant KINGDOM WARRIORS MINISTRY ("KWM"), may claim an interest in the real property commonly known as 243 Devon Road, Battle Creek, Michigan 49015 more fully described as all that real property located in the City of Battle Creek, Calhoun County, Michigan, described as:

LOTS 82 AND 83, GAGE-INGRAM SUPERVISOR'S PLAT ACCORDING TO THE PLAT THEREOF, AS RECORDED IN LIBER 9 OF PLATS, PAGE 49.

Parcel No.: 13-3320-07-079-2

Commonly known as: 243 Devon Road, Battle Creek, Michigan 49015

(hereinafter the “Subject Property”), subject to the security interest of BANA.

3. Defendant KETURAH MIXON (“Keturah”) is an adult believed to be living at the Subject Property.

4. This is an action to (i) force removal/expungement of an unauthorized discharge of mortgage recorded in reference to the Subject Property as set out below in more detail; (ii) quiet title in the Subject Property, subject to the first lien priority of a mortgage currently held by BANA; and (iii) and confirm BANA having a first secured mortgage in the Subject Property as to all interests of the Defendants.

5. The amount in controversy exceeds \$75,000.00.

6. There is complete diversity of citizenship between Plaintiff and the Defendants.

7. The Federal CARES Act, enacted in March of 2020 in response to the global pandemic, bars foreclosure of certain federally-backed residential mortgages.

8. In February 2021, President Biden extended the moratorium provisions of the CARES Act until June of 2021.

9. BANA’s Mortgage is insured by the Secretary of Housing and Urban Development.

10. BANA reserves the right to enforce the terms of its Mortgage as future circumstances warrant.

11. Any defense involving failure to join all claims must be asserted in this case as an affirmative defense.

DETERMINE INTEREST IN REAL PROPERTY AGAINST ALL DEFENDANTS

Facts and General Allegations

12. BANA repeats and incorporates by reference Paragraphs 1 through 11 as though same were fully set forth herein.

13. On or about January 29, 2010, Andrew A. Askler, a married man, and Arthur J. Quinn, a married man, conveyed the Subject Property to Keturah, for the sum of \$121,000.00, via that certain warranty deed recorded February 12, 2010, in Liber 3522, Page 39, Calhoun County Records, Calhoun County, Michigan. A copy of the warranty deed is attached hereto as **Exhibit A**.

14. Keturah took out a loan in the amount of \$118,800.00 from Top Flite Financial Inc. ("Top Flite") to assist her in the purchase the Subject Property (the "Purchase Money Loan").

15. As security for her promise to repay the Purchase Money Loan, Keturah granted a purchase money mortgage on the Subject Property to Mortgage Electronic Registration Systems Inc., a Delaware corporation, solely as Nominee for Top Flite (the "Purchase Money Mortgage").

16. The Purchase Money Mortgage was recorded on February 12, 2010, in Liber 3522, Page 41, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit B**.

17. On or about July 21, 2011, MERS, solely as nominee for Top Flite, assigned the Purchase Money Mortgage to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP, via that certain assignment of mortgage recorded July 29, 2011, Liber

3636, Page 892, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit C**.

18. On or about February 8, 2012, Keturah and Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP, entered into that certain Loan Modification Agreement recorded June 8, 2012, Liber 3710, Page 147, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit D**.

19. On July 21, 2014, an unauthorized and forged satisfaction of the Purchase Money Mortgage was purportedly executed by Bank of America, N.A. (“Unauthorized/Forged Satisfaction of Mortgage”).

20. On or about October 13, 2014, Keturah conveyed by quit claim deed, all her right, title and interest in the Subject Property to Antonio Mixon, via that certain quit claim deed recorded October 29, 2014, Liber 3921, Page 102, a copy of which is attached hereto as **Exhibit E**.

21. On or about December 2, 2014, Keturah recorded a notice of lis pendens against the Subject Property stating that she was the homeowner and had filed an action related to the Subject Property against several defendants (“Notice of Lis Pendens”). The Notice of Lis Pendens was recorded on December 12, 2014, Liber 3932, Page 227, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit F**.

22. On July 15, 2015, the Unauthorized and Forged Satisfaction of Mortgage (related to the Purchase Money Mortgage) was recorded in Liber 3979, Page 91, Calhoun

County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit G**.¹

23. On or about July 19, 2016, BANA, successor by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP, assigned the Purchase Money Mortgage to the Secretary of Housing and Urban Development (“HUD”), via that certain corporation assignment of mortgage recorded July 7, 2017, Liber 4152, Page 686, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit H**.

24. On or about October 26, 2016, HUD assigned the Purchase Money Mortgage to Wilmington Savings Fund Society, FSB as trustee for Stanwich Mortgage Loans Trust A via that certain corporation assignment of mortgage recorded July 7, 2017, Liber 4152, Page 688, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit I**.

25. On or about August 20, 2020, Keturah, attempted to convey the Subject Property to Antonio Dixon via that certain Warranty Deed recorded August 20, 2020, Liber 4448, Page 85, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit J**. This was 6 years after she had already conveyed all her right, title and interest in the Subject Property to Antonio via quit claim deed. Please see Exhibit E.

¹ The timing of this action coincides with Keturah losing her 2015 federal court action. On June 26, 2015, the Magistrate in the federal court case recommended the denial of motions by Keturah and the granting of Bank of America’s motion to dismiss. The case was later dismissed on July 17, 2015. The unauthorized satisfaction of mortgage was dated July 21, 2014 but not recorded until July 15, 2015, less than a month after the report and recommendation of the Magistrate Judge and two days before the federal case was dismissed.

26. Also on or about August 20, 2020, Antonio Duane Dixon conveyed the Subject Property to Kingdom Warriors Ministry via that certain Warranty Deed recorded August 20, 2020, Liber 4448, Page 86, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit K**.

27. On or about March 4, 2021, Wilmington Savings Fund Society, FSB as trustee for Stanwich Mortgage Loans Trust A assigned the Purchase Money Mortgage to BANA via that certain assignment of mortgage recorded April 15, 2021, Liber 4528, Page 373, Calhoun County Records, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit L**.

28. The unauthorized and forged satisfaction of the Purchase Money Mortgage recorded July 15, 2015, in Liber 3979, Page 91, Calhoun County Records, Calhoun County, Michigan, was not authorized or recorded by BANA. Please see the Affidavit of Matters Affecting Realty recorded July 23, 2020, Liber 4438, Page 309, Calhoun County, Michigan, a copy of which is attached hereto as **Exhibit M**.

29. The indebtedness due and owing under the Purchase Money Loan has not been satisfied and remains unpaid. See Exhibit M.

30. The satisfaction of the Purchase Money Mortgage recorded in Liber 3979, Page 91, Calhoun County Records, Calhoun County, Michigan, was not prepared or authorized by BANA and BANA maintains the Purchase Money Loan and Purchase Money Mortgage are still outstanding. See Exhibit M.

WHEREFORE, Bank of America, N.A., a national association prays this Honorable Court order and adjudge the following:

(i) That the unauthorized and forged satisfaction of the Purchase Money Mortgage recorded July 15, 2015, in Liber 3979, Page 91, Calhoun County Records, Calhoun County, Michigan be expunged and ruled of no force and effect;

(ii) That the Purchase Money Mortgage recorded February 12, 2010, in Liber 3522, Page 41, Calhoun County Records, Calhoun County, Michigan is a valid first mortgage against the Subject Property;

(iii) That any interest in the Subject Property held by any and all of the Defendants are subject to and junior to the Purchase Money Mortgage recorded February 12, 2010, in Liber 3522, Page 41, Calhoun County Records, Calhoun County, Michigan, now held by BANA; and

(iv) Order such other relief as is deemed appropriate.

DATED: May 24, 2021

/s/ Kelli L. Baker
Kelli L. Baker (P49960)
Attorney for Plaintiff
333 Bridge Street NW, Ste. 530
Grand Rapids, MI 49504
616-752-4624
kbaker@plunkettcooney.com

Open.10100.02550.26480970-1